

Legislative Analysis



MINOR IN POSSESSION REVISIONS: AMEND EFFECTIVE DATE

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4939 (Substitute H-1) as reported by committee
Sponsor: Rep. Peter J. Lucido
Committee: Law and Justice
Complete to 9-16-17

Analysis available at
<http://www.legislature.mi.gov>

(Enacted as Public Act 123 of 2017)

SUMMARY:

The bill would change the effective date of Public Act 89 of 2017, which amended provisions of the minor in possession (MIP) law, to January 1, 2018.

BACKGROUND INFORMATION:

Under Section 703 of the Michigan Liquor Control Code, known as the Minor in Possession (MIP) law, a person under the age of 21 is prohibited from purchasing or attempting to purchase, consuming or attempting to consume, possessing or attempting to possess, alcohol or generally having any bodily alcohol content.

Public Act 357 of 2016 (enrolled Senate Bill 332), among other things, amended the MIP statute within the Michigan Liquor Control Code to do all of the following:

- Change the penalty for a first offense of possessing, consuming, or having any bodily alcohol content from a misdemeanor to a state civil infraction.
- Eliminate a provision subjecting a minor to a state civil infraction for refusing to submit to a preliminary breath analysis (PBT) and instead allow a peace officer having reasonable cause to believe a minor has consumer alcohol or has any bodily alcohol content to request the minor to submit to a PBT.
- Allow the peace officer to administer the PBT with or without a court order.
- Eliminate a provision allowing a peace officer to arrest a minor in whole or in part on the results of the PBT.

The changes made by PA 357 were scheduled to take effect January 1, 2018.

However, Public Act 89 of 2017 (enrolled House Bill 4213), amended the same section of law to specify that if a minor does not consent to a PBT, the test may not be administered without a court order. PA 89 will take effect October 10, 2017. Unless PA 89 is amended to change its effective date, the changes made by PA 357 of 2016 will also take effect on October 10, 2017 rather than the intended date of January 1, 2018.

House Bill 4939 would amend Public Act 89 to change the effective date of the act to January 1, 2018. If House Bill 4939 were enacted, all of the changes made to the MIP law by the provisions of both PA 357 of 2016 and PA 89 of 2017 would take effect on January 1, 2018.

FISCAL IMPACT:

HB 4939 would have no additional fiscal impact on the state or on local units of government.

POSITIONS:

The Prosecuting Attorneys Association of Michigan indicated support for the bill. (9-18-17)

The Department of State (SOS) indicated support for the bill. (9-18-17)

The State Court Administrative Office (SCAO) indicated support for the bill. (9-18-17)

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Robin Risko

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.